

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☒ INFORMATION ☐ INDICTMENT
☐ SUPERSEDING

OFFENSE CHARGED

Counts One through Eleven -- Unauthorized
 Access to a Protected Computer, 18 U.S.C.
 § 1030(a)(4)
 Count Twelve -- Criminal Copyright
 Infringement, 17 U.S.C. § 506(a)(1)(A) & 18
 U.S.C. § 2319(b)(1)

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY:

Per count -- \$500,000 fine or twice the gross gain/loss, 5 years of
 probation, \$400 special assessment

Name of District Court, or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT

TOMORROWNOW, INC.

DISTRICT COURT NUMBER

CR 11 0642

PROCEEDING

E-filing

Name of Complainant Agency, or Person (& Title, if any)

Federal Bureau of Investigation

☐ person is awaiting trial in another Federal or State Court,
 give name of court

☐ this person/proceeding is transferred from another district
 per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of
 charges previously dismissed
 which were dismissed on motion
 of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW
 DOCKET NO.

☐ this prosecution relates to a
 pending case involving this same
 defendant

MAGISTRATE
 CASE NO.

☐ prior proceedings or appearance(s)
 before U.S. Magistrate regarding this
 defendant were recorded under

Name and Office of Person
 Furnishing Information on this form

MELINDA HAAG

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.
 Attorney (if assigned) Kyle F. Waldinger & Susan F. Knight

☐ This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**

☐ SUMMONS ☒ NO PROCESS* ☐ WARRANT

Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

* Where defendant previously apprehended on complaint, no new summons or
 warrant needed, since Magistrate has scheduled arraignment

Defendant Address:

Date/Time: _____ Before Judge: _____

Comments: _____

MELINDA HAAG (CABN 132612)
United States Attorney

FILED
2011 SE. -8 A 11:34
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

E-filing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SBA

OAKLAND DIVISION

CR 11 0642

UNITED STATES OF AMERICA,

Plaintiff,

v.

TOMORROWNOW, INC.,

Defendant.

No.

VIOLATIONS: Title 18, United States
Code, Section 1030(a)(4) — Unauthorized
Access to a Protected Computer with Intent
to Defraud and Obtaining Something of
Value; 17 U.S.C. § 506(a)(1)(A) & 18
U.S.C. § 2319(b)(1) — Criminal Copyright
Infringement

OAKLAND VENUE

INFORMATION

The United States Attorney charges:

BACKGROUND

At all times relevant to this Information:

1. The defendant TomorrowNow, Inc. ("TomorrowNow") was a company engaged in the business of providing third-party maintenance and support services to business, government, and other organizations that used enterprise software licensed from Oracle Corporation ("Oracle") or one of its related entities, including from Oracle's predecessor companies PeopleSoft, JD Edwards, and Siebel Systems. TomorrowNow maintained its headquarters in Bryan, Texas.

2. Oracle was engaged in the business of developing and marketing enterprise

INFORMATION

software. Oracle also offered maintenance and support services to organizations throughout the United States and the world that had licensed its software. This software included products in the Oracle's PeopleSoft, Enterprise One, and World product lines. Oracle maintained its headquarters in Redwood City, California. Oracle also maintained computer servers at a data center in Pleasanton, California, which servers contained some software and related documentation pertaining to certain Oracle product lines. Some of these materials were available to be downloaded over the Internet by Oracle customers. The authority of any particular customer to download materials was governed by Oracle's license agreements with that customer, as well as by the terms of use specified on Oracle-maintained websites.

COUNTS ONE**THROUGH ELEVEN:**

18 U.S.C. § 1030(a)(4) — Unauthorized Access to a Protected Computer with Intent to Defraud and Obtaining Something of Value

3. The factual allegations in paragraphs 1 and 2 are re-alleged and incorporated herein as if set forth in full.

4. On or about the dates set forth in the separate counts below, in the Northern District of California, and elsewhere, the defendant,

TOMORROWNOW, INC.,

through its employees and agents, did knowingly and with intent to defraud access a protected computer belonging to Oracle, without authorization and by exceeding authorized access, and by means of such conduct did further the intended fraud and obtain something of value, to wit, Oracle software and related information belonging to Oracle:

COUNT	DATE	ITEMS OBTAINED	CREDENTIALS USED TO GAIN ACCESS
One	12/09/2006	Oracle Enterprise One software in the form of electronic software updates ("ESUs") for U.S. payroll	Oracle customer log-in credentials for SPX Corporation
Two	12/11/2006	Oracle Enterprise One software in the form of electronic software updates for tools applications	Oracle customer log-in credentials for SPX Corporation

COUNT	DATE	ITEMS OBTAINED	CREDENTIALS USED TO GAIN ACCESS
Three	12/13/2006	Oracle Enterprise One software in the form of electronic software updates for real estate management	Oracle customer log-in credentials for Merck & Co., Inc.
Four	12/15/2006	Oracle Enterprise One software in the form of electronic software updates for real estate management	Oracle customer log-in credentials for Merck & Co., Inc.
Five	12/29/2006	Oracle Enterprise One software in the form of electronic software updates for Canadian payroll	Oracle customer log-in credentials for Yazaki North America, Inc.
Six	02/14/2007 to 03/02/2007	Oracle World software fixes in the form of Microsoft Word documents	Oracle customer log-in credentials for Metro Machine Corporation
Seven	02/23/2007	Oracle Enterprise One software action requests	Oracle customer log-in credentials for Merck & Co., Inc.
Eight	03/07/2007	Oracle PeopleSoft software in the form of software updates	Oracle customer log-in credentials for Tropical Shipping USA LLC
Nine	03/07/2007	Oracle World software action requests	Oracle customer log-in credentials for Honeywell International, Inc.
Ten	03/28/2007	Oracle PeopleSoft software in the form of maintenance packs	Oracle customer log-in credentials for Tropical Shipping USA LLC
Eleven	04/10/2007	Oracle PeopleSoft software in the form of a software update	Oracle customer log-in credentials for Tropical Shipping USA LLC

All in violation of Title 18, United States Code, Section 1030(a)(4).

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COUNT TWELVE: 17 U.S.C. § 506(a)(1)(A) & 18 U.S.C. § 2319(b)(1) — Criminal Copyright Infringement

5. The factual allegations in paragraphs 1 and 2 are re-alleged and incorporated herein as if set forth in full.

6. Beginning on an unknown date, but by no later than in or about March 2005, and continuing to on or about October 12, 2008, in the Northern District of California, and elsewhere, the defendant,

TOMORROWNOW, INC.,

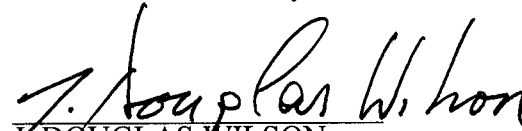
through its employees and agents, did willfully, and for the purpose of commercial advantage and private financial gain, infringe the copyrights of copyrighted works, that is, Oracle software, by reproducing, during a 180-day period, at least 10 copies of one or more of those copyrighted works, which had a total retail value of more than \$2,500.

All in violation of Title 17, United States Code, Section 506(a)(1)(A) and Title 18, United States Code, Section 2319(b)(1).

DATED:

9/7/11

MELINDA HAAG
United States Attorney


DOUGLAS WILSON
Deputy Chief, Criminal Division

(Approved as to form)


AUSA WALDINGER
AUSA KNIGHT